

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

DONNA K. SOUTTER, *for herself and on behalf
of other similarly situated individuals*

Plaintiffs,

Civil Action No. 3:10cv107

v.

EQUIFAX INFORMATION SERVICES, LLC

Defendant.

**PLAINTIFF’S MEMORANDUM IN SUPPORT OF HER MOTION TO AMEND
SCHEDULING ORDERS TO PERMIT PLAINTIFF ADDITIONAL DISCOVERY AND
TO ENLARGE TIME TO FILE HER REPLY BRIEF IN SUPPORT OF HER RENEWED
MOTION FOR CLASS CERTIFICATION**

COMES NOW the Plaintiff, Donna K. Soutter (“Soutter” or “Plaintiff”), by counsel and with consent of the Defendant, and in support of her Motion To Amend Scheduling Orders To Permit Plaintiff Additional Discovery And To Enlarge Time To File Her Reply Brief In Support Of Her Renewed Motion For Class Certification, she states as follows:

In accordance with the Court’s June 18, 2010 scheduling order, “Phase I” discovery ended October 8, 2010. (Docket No. 42). After briefing as to Plaintiff’s original motion for class certification, appeal to the Court of Appeals for the Fourth Circuit and remand, the Court entered a new schedule for renewed class certification briefing ultimately setting the date for Plaintiff’s reply brief no later than May 3, 2013. (Docket No. 134).

Pursuant to Fed. R. Civ. P. 16(b)(4), a scheduling order may be modified for good cause and with a judge’s consent. Additionally, under Rule 6(b), the court may, for good cause, extend the time to respond to a motion upon request from a party prior to the expiration of the original deadline. Fed. R. Civ. P. 6(b)(1)(A).

On April 19, 2013, Equifax filed its response brief and in its opposition Defendant presented a new declaration from Mark Johnson on behalf of third party LexisNexis Risk Data Retrieval Services, LLC (“LexisNexis”) (Docket No. 135-1) and related documentary evidence purportedly compiled or created after Plaintiff’s filing of the renewed class certification motion and raising factual claims not previously the subject of Defendant’s disclosed evidence or Plaintiff’s discovery.¹ Accordingly, counsel for both parties have met and conferred and propose this Motion to permit additional discovery from Mr. Johnson and LexisNexis and to enlarge Plaintiff’s deadline by which to file her reply brief until after such targeted discovery.²

Additionally, Plaintiff requests an extension until June 28, 2013 in which to finalize her reply brief in support of her renewed motion for class certification.

The Defendant has consented to this extension of time for Plaintiff to file her reply brief. Furthermore, the Defendant will suffer no legal prejudice as a result of an extension and the interests of justice will be served by granting this motion.

For good cause shown, Plaintiff respectfully requests that this Court grant her Motion To Amend Scheduling Orders To Permit Plaintiff Additional Discovery And To Enlarge Time To File Her Reply Brief In Support Of Her Renewed Motion For Class Certification and enter the Proposed Order.

¹ Equifax does not necessarily agree that the new Mark Johnson declaration and related documents are improper, but consents to the supplemental discovery and reply brief enlargement to avoid collateral motions practice.

² Equifax’s counsel has represented that LexisNexis remains an unaffiliated third party and that Defendant is unable to cause the production of Mr. Johnson or LexisNexis outside the ordinary process of third party document and deposition subpoenas.

Respectfully submitted,
DONNA K. SOUTTER,
*individually and on behalf of all
others similarly situated*

By: /s/
Of Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of April, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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